



# CITY OF SAN DIEGO

## NOTICE OF CITY COUNCIL PUBLIC HEARING

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**DATE OF MEETING:** TUESDAY, MARCH 1<sup>st</sup>, 2022  
**TIME OF MEETING:** 2:00 PM  
**PLACE OF MEETING:** COUNCIL CHAMBERS, 12<sup>th</sup> FLOOR,  
CITY ADMINISTRATION BUILDING,  
202 "C" STREET, SAN DIEGO, CALIFORNIA, 92101

**PROJECT TYPE:** MUNICIPAL CODE AND LOCAL COASTAL PROGRAM  
AMENDMENTS

**PROJECT NAME:** REPEAL OF PUSHCARTS IN THE PUBLIC RIGHT-OF-WAY AND  
BUSINESS REGULATIONS FOR SIDEWALK VENDING

**APPLICANT:** CITY OF SAN DIEGO

**COUNCIL DISTRICT:** CITYWIDE

**FOR ADDITIONAL INFORMATION, PLEASE CONTACT**  
Venus Molina, Chief of Staff – Council District 2, (619)236-6622 / [VMMolina@sandiego.gov](mailto:VMMolina@sandiego.gov)

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**PLEASE ACCEPT THIS AS A NOTICE TO INFORM YOU, as a property owner, tenant or interested citizen, that the Council of The City of San Diego, California will conduct a public hearing, as part of a scheduled City Council meeting, on the following project:**

### REPEAL OF PUSHCARTS IN THE PUBLIC RIGHT-OF-WAY:

Amendments to the Land Development Code and Local Coastal Program are required for compliance with state law. Senate Bill 946 was passed that regulates pushcarts and sidewalk vending within the public right-of-way. The existing regulations for pushcarts on private property will remain in the Municipal Code.

The proposed code amendments remove the regulations for pushcarts within the public right-of-way so as not to conflict with any proposed sidewalk vending regulations enacted under Chapter 3 of the San Diego Municipal Code (SDMC). Amendments related to the repeal of pushcarts in the public right-of-way to the Municipal Code include Chapter 12, Article 6, Division 2; Chapter 12, Article 9, Division 7; Chapter 13, Article 1, Division 1-6; Chapter 13, Article 2, Division 15; Chapter 14, Article 1, Division 6; Chapter 15, Article 5, Division 2; Chapter 15, Article 6, Division 3; Chapter 15, Article 7, Division 3; and Chapter 15, Article 16, Division 1.

### Planning Commission Action:

On July 25, 2019, the Planning Commission voted 6-0-1 with Commissioners Hofman, Austin, Granowitz, Boomhower, Otsuji and Whalen voting yea and with Commissioner Peerson absent.

The proposed project is not subject to the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15060(c)(2) as it would not result in a direct or a reasonably foreseeable indirect physical change in the environment. Pushcarts located within the right-of-way are not permanent structures and are primarily designed to service existing pedestrian activity. Pursuant to Senate Bill (SB) 946 and with limited exception, cities are not permitted to disallow sidewalk vending on a public sidewalk except where the restrictions are directly related to objective health, safety or welfare concerns. The repeal of pushcart in public right-of-way provisions are intended to comply with SB 946. In accordance with SB 946, the City has not been enforcing its regulations related to sidewalk vending that are in conflict with SB 946, including its pushcart in the public right-of-way provisions so the repeal of such provisions will not have an effect on the environment.

### SIDEWALK VENDING REGULATIONS:

Proposed amendments to the City's Municipal Code to regulate sidewalk vending are being made to comply with state law under Senate Bill 946 by adding provisions to the Business Regulations, Business Taxes, Permits and Licenses section (Chapter 3, Article 6, Division 1 of the San Diego Municipal Code by adding sections 36.0101 through 36.0114) and by amending the City's Municipal Code by amending provisions to the Public Safety, Morals, and Welfare section (Chapter 5, Article 4, Division 1, by amending Section 54.0105), which all relate to sidewalk vending. These provisions are not zoning regulations under California Government Code section 65850 and the addition of sidewalk vending regulations do not constitute amendments to the Land Development Code and therefore was not heard by the Planning Commission.

This ordinance to regulate sidewalk vending is not subject to CEQA pursuant to CEQA Guidelines Section 15060(c)(2) as it would not result in a direct or reasonably foreseeable indirect physical change in the environment. Pursuant to SB 946 and with limited exception, cities are not permitted to disallow sidewalk vending on a public sidewalk, except where the restrictions are directly related to objective health, safety, or welfare concerns. This ordinance is intended to comply with SB 946. In accordance with SB 946, the City has not been enforcing its regulations related to sidewalk vending that are in conflict with SB 946. As a result, sidewalk vendors are currently

operating in the City and would continue to be allowed to do so even with the adoption of this ordinance. Therefore, adoption of this ordinance would not result in any physical changes to the environment. Even if the ordinance is subject to CEQA, it is nevertheless categorically exempt pursuant to CEQA Guidelines section 15301(Existing Facilities) because it involves the use of existing sidewalks involving negligible or no expansion of an existing use-as the ordinance is proposing to regulate sidewalk vending activity that is already occurring and will allow for regulated uses of City sidewalks in a manner no more intense than is the case on the date the City Council adopts the ordinance, and none of the exceptions to the exemption listed in CEQA Guidelines 15300.2 would apply.

Following City Council action, the City will submit the amendments to the Land Development Code, which consist of only the repeal to pushcarts in the public right-of-way to the Airport Land Use Commission for a consistency determination. The code amendments will not be effective until the Airport Land Use Commission determines the ordinance is consistent with adopted ALUCPs, or the City processes an overrule.

If you wish to challenge the City's action on the above proceedings in court, you may be limited to addressing only those issues you or someone else have raised at the public hearing described in this notice or written in correspondence to the City at or before the public hearing. If you have any questions after reviewing this notice, you can call the City Project Manager listed above.

#### Notice of Availability of Local Coastal Program Amendment:

The ordinances could apply to development in the Coastal Zone as defined in the Coastal Act; therefore, the City Council's decision requires amending the City's Local Coastal Program. The final decision by the City Council will occur no sooner than six weeks after the date of mailing of this notice. The final decision on the ordinances that are the City's Local Coastal Program will be with the California Coastal Commission. The ordinances will not be effective in the coastal zone until the Coastal Commission unconditionally certifies the amendment.

If you wish to be noticed of the Coastal Commission hearing on these issues, you must submit a request in writing to the City of San Diego Planning Department, Attention: Venus Molina, Chief of Staff - Council District 2 , 202 C St, MS 10A, San Diego, CA 92101 or [VMMolina@sandiego.gov](mailto:VMMolina@sandiego.gov) before the close of the City Council public hearing. If you wish to challenge the City's action on the above proceedings in court, you may be limited to addressing only those issues you or someone else have raised at the public hearing described in this notice, or written in correspondence to the City at or before the public hearing.

**The decision of the City Council is final.**

#### **COVID-19 STATE OF EMERGENCY COMMUNICATIONS**

Until further notice, City Council meetings will be conducted pursuant to the provisions of California Government Code section 54953(e), as amended by Assembly Bill 361 effective September 16<sup>th</sup>, 2021, which suspends certain requirements of the Ralph M. Brown Act during a proclaimed state of emergency when measures to promote social distancing are in effect or the City Council has determined meeting in person would present imminent risks to the health or safety of attendees.

During the State of Emergency related to the COVID-19 pandemic and in the interest of public health and safety, most, if not all, City Council members will be participating in the City Council meetings via a virtual teleconference platform. There will be no members of the public in attendance at the City Council meetings. We are providing alternatives to in-person attendance for participating in City Council meetings.

Members of the public may provide public comment via telephone or ZOOM platform during the March 1<sup>st</sup>, 2022, City Council meeting. Instructions for providing virtual testimony will be posted on the City Clerk's website at <https://www.sandiego.gov/city-clerk/officialdocs/council-agendas-minutes-results> prior to the hearing, and on the meeting agenda. The amount of time allotted for each speaker will be determined in the discretion of the chair, who will generally allow between one and three minutes per speaker depending on the number of speakers in the queue for that item. Any changes to the format of City Council meetings during the proclaimed State of Emergency can be found on the City Clerk's website (<https://www.sandiego.gov/city-clerk/officialdocs/council-agendas-minutes-results>) as well.

Comments may also be submitted electronically using the City Clerk [webform](https://www.sandiego.gov/form/agenda-comment-form) at <https://www.sandiego.gov/form/agenda-comment-form> by indicating the agenda item number for which you wish to submit your comment. Comments submitted using this form will be distributed to the City Council and made a part of the record but will not be read into the record. Please note that electronic comments submitted using this form are limited to 500 words, but attachments are allowed. If the size limitations are met please send materials to [cityclerk@sandiego.gov](mailto:cityclerk@sandiego.gov).

Additionally, you may write a letter to the Mayor and City Council, Attention: City Clerk, City Administration Building, 202 "C" Street, San Diego, CA 92101-4806, Mail Station 2A; OR you can reach us by **FAX: (619) 533-4045**. All communications will be forwarded to the Mayor and Council.

The public may view the meetings on public television (within the City of San Diego only) on City TV Channel 24 for Cox Communications and Time Warner Cable or Channel 99 for AT&T, or view the meetings online, located at [http://sandiego.granicus.com/player/camera/5?publish\\_id=1648](http://sandiego.granicus.com/player/camera/5?publish_id=1648).

In accordance with the Brown Act, the agenda will be posted 72 hours in advance of the City Council meeting. Please refer to the City Clerk's website to view the agenda, and for further instruction and applicable deadlines for submitting public comment or written materials.

If you wish to challenge the Council's actions on the above proceedings in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence to the City Council at or prior to the public hearing.

#### **REQUESTS FOR ACCESSIBILITY MODIFICATIONS OR ACCOMMODATIONS**

As required by the Americans with Disabilities Act (ADA), requests for agenda information to be made available in alternative formats, and any requests for disability-related modifications or accommodations required to facilitate meeting participation, including requests for alternatives to observing meetings and offering public comment as noted

above, may be made by contacting the City Clerk at (619) 533-4000 or via email [cityclerk@sandiego.gov](mailto:cityclerk@sandiego.gov). The City is committed to resolving accessibility requests swiftly in order to maximize accessibility.

**Notice Date:ELIZABETH MALAND**  
**February 14<sup>th</sup>, 2022**

**SAN DIEGO CITY CLERK**